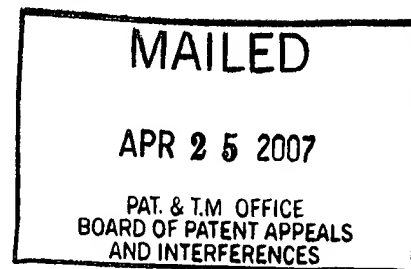


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCE

Ex parte MATHIAS LARSSON, CHARILAOS CHRISTOPOULOS,
MAGNUS JANDEL, DIEGO SANTA CRUZ and TOURADJ EBRAHMI

Application 09/418,323



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on January 17, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

An Information Disclosure Statement (IDS) was filed on March 15, 2007. It is not clear from the record whether the Examiner considered the IDS or whether the Examiner notified Appellants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

September 27, 2005, Appellants filed an Appeal Brief. A review of the file reveals that the "Summary of Claimed Subject Matter" does not map the independent claim to the specification, as set forth in 37 CFR § 41.37(c)(1)(v) which states:

(v) Summary of claimed subject matter. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Proper correction of the Appeal Brief is required.

Application 09/418,323

In addition, the Examiner's Answer mailed December 23, 2005, does not fully comply with the requirements of 37 CFR § 41.37. The following headings need to be included in accordance with MPEP § 1207.02:

(8) *Evidence Relied Upon*. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

(9) *Grounds of Rejection*. For each ground of rejection maintained by the examiner and each new ground of rejection (if any), an explanation of the ground of rejection.

A revised Examiner's Answer that is in full compliance with 37 CFR § 41.37 is required.

Accordingly, it is ORDERED that the application is return to the Examiner to:

- 1) to consider the Information Disclosure Statement filed March 15, 2007;
- 2) provide appropriate written notification by the Examiner to Appellants of such consideration; and
- 3) hold the Appeal Brief filed on September 27, 2005, defective;

Application 09/418,323

- 4) notify appellants to file a supplemental Appeal Brief compliance with 37 CFR § 41.37;
- 5) vacate the Examiner Answer mailed December 23, 2005, in response to the supplemental Appeal Brief, and submit a revised Examiner's Answer in accordance with the new rules effective September 13, 2004; and
- 6) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES



PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571)272-9797

PJN:pgc

cc: Nixon & Vanderhye, PC
901 North Glebe Road
11th Floor
Arlington, VA 22203